

REMARKS

In this Reply, Claims 2, 3, 9, 18, and 24 are cancelled, and Claims 1, 4, 5, 7, 8, 10, 17, 19, 22, and 23 are amended. Claims 6, 11-16 and 20-21 remain unchanged. No claims are newly added, but Claim 23 is now in independent form. Accordingly, Claims 1, 4 - 8, 10 -17, and 19 - 23 remain in this Application.

Reconsideration of this Application is requested.

The issues raised in the Examiner's Communication will now be addressed.

DOUBLE PATENTING

For reasons given, the Examiner rejected Claims 1 - 24 under the judicially created doctrine of obviousness type double patenting as being unpatentable over the claims of US-D503610, and noted that a timely filed Terminal Disclaimer under 35 USC 1.321 (c) may be used to overcome this rejection.

The patentee of US-D503610 and the Applicant herein are the same and own the entire rights to each invention.

Submitted herewith is a Terminal Disclaimer. (PTO/SB/26).

Accordingly, Applicant's Attorney submits that the Examiner's rejection is obviated.

SPECIFICATION

The Specification is amended to correct minor errors. Paragraph [0044] is amended in a manner suggested by the Examiner. Paragraph [0060] is amended

to correct a typographical error.

For reasons given, the Examiner objected to the disclosure.

The amendment to Paragraph [0044] is believed to obviate the Examiner's objection of the disclosure.

CLAIM REJECTIONS – 35 USC 112, SECOND PARAGRAPH

Claim 24 is rejected as being indefinite because of the language "Patent No. 4,921,147.

Claim 24 is amended herein in a manner to render the claim definite. Support for the amendment is found in the Specification (see Paragraphs [0059] and [0060]).

Accordingly, the Examiner's Section 112 rejection is believed obviated.

ALLOWABLE SUBJECT MATTER

The Examiner objected to Claims 3-6, 9-11, 18-21, and 23-24 as being dependent on a rejected base claim but advised that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

The Claims herein are amended in a manner suggested by the Examiner.

In particular, independent Claim 1 is rewritten to include the limitations of Claim 3 and intervening Claim 2, whereupon Claims 2 and 3 are cancelled. Accordingly, Claim 1 is now allowable. Claims 4, 5, and 6, which depend from Claim 1, are allowable for the same reason that Claim 1 is allowable.

Independent Claim 8 is rewritten to include the limitations of Claim 9, whereupon Claim 9 is cancelled. Accordingly, Claim 8 is now allowable. Claims

10 – 16 depend from Claim 8 and are allowable for the same reason that Claim 8 is now allowable.

Independent Claim 17 is amended herein to include the limitations of Claim 18 and Claim 18 is cancelled. Accordingly, Claim 18 is now allowable. Claims 19, 20, and 21 depend from Claim 18 and are allowable for the same reason that Claim 18 is allowable.

As to Claim 24, the Examiner noted that Claim 24 would be allowable if rewritten to overcome the rejection under 35 USC 112 (discussed above) and to include all of the limitations of the base claim and any intervening claim.

Each dependent Claim 23 and Claim 24, as filed, depended directly from independent Claim 22. By this Reply, Claim 22 is rewritten herein to include the limitations of Claim 24, including the amendments to overcome the Section 112 rejection, and Claim 24 is cancelled. Accordingly, Claim 22 is now allowable. Claim 23 is rewritten in independent form and now includes all the limitations of Claim 22, as filed, and dependent Claim 23. Accordingly, Claim 23 is now allowable.

CLAIM REJECTIONS – 35 USC 102 (b)

Claims 17 and 22 are rejected under 35 USC 102 (b) as being anticipated by Morris US-5,597,097, for reasons given.

By the amendments herein, as just discussed, Claims 17 and 22 have been amended in a manner suggested by the Examiner, and which make Claims 17 and 22 allowable.

Accordingly, the Examiner's rejection under 35 USC 102 (b) should be

withdrawn.

CLAIM REJECTIONS – 35 USC 103 (b)

Claims 1, 2, 7-8, and 12-16 are rejected under 35 USC 103 as being unpatentable over Morris in view of Poirier US-4,921,147.

The Examiner contends:

“Morris lacks an axially compressible sleeve. Poirier shows a hand held container having an axially compressible sleeve to ease access and to facilitate pouring (column 1, lines 19-31). It would have been obvious to one of ordinary skill in the art to have modified the Morris container with an axially compressible sleeve as taught by Poirier to ease access and to facilitate pouring.

Applicant's Attorney traverses the Examiner's rejection based on obviousness.

As discussed, to advance prosecution, Claim 2 is cancelled. Claim 1, as amended herein, is allowable.

Independent Claim 7 is amended herein to further define the “means for sealing” as comprising “an axially elongated and axially compressible sleeve disposed in coaxial relation about said pour tube, said sleeve having a forward end fixed in sealed relation to the pour tube and a forward end positioned rearwardly of the discharges end of the pour tube and adapted to retract rearwardly and towards said rearward end, the forward end being configured for sealing about the inlet opening of the receiving tank when the discharge end of the pour tube is inserted into the receiving tank wherein to inhibit vapors from escaping to the atmosphere during dispensing. The prior art relied upon by the Examiner does not show or suggest such structure.

Applicant's Attorney submits that amended Claim 7 defines patentably over the prior art and is allowable thereover.

As discussed, to advance prosecution, independent Claim 8 is amended in manner suggested by the Examiner and, as such, is now allowable. Claims 12 and 13 depend from Claim 8 and are submitted as being allowable for the same reasons that Claim 8 is now allowable.

CONCLUSION

The Examiner's rejection based on double patenting is submitted as obviated in view of the Terminal Disclaimer submitted herewith.

Applicant's Attorney submits that the Examiner's bases for objection and/or rejection, either of the Specification or the Claims, have been obviated.

Claims 1, 4 - 8, 10 -17, and 19 - 23, all claims remaining in this application, are submitted as being patentable and allowable over the prior art, and in condition for allowance.

A Notice of allowance is respectfully requested.

If the Examiner feels that the prosecution of this application can be expedited then she is courteously requested to place a telephone call to applicant's attorney at the number listed below.

Respectfully Submitted,


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